

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SHOLEM GREENFELD,

Plaintiff,

Court File No.: 19-cv-5490-ILG-RML

v.

Judge: I. Leo Glasser
Magistrate: Robert M. Levy

MRS BPO, LLC,

Defendant.

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DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

Defendant MRS BPO, LLC ("MRS"), as and for its Answer to the claims asserted by Plaintiff Sholem Greenfeld ("Plaintiff"), states as follows:

MRS denies that it violated the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.*, and any other state or federal law with regard to Plaintiff and further denies any and all damages, liability, and/or violations to the extent alleged therein.

AFFIRMATIVE DEFENSES

MRS reserves its right to assert additional affirmative defenses as may be applicable upon the filing of a Complaint by Plaintiff.

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim against MRS upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Pursuant to 15 U.S.C. § 1692k(c), to the extent a violation(s) is established and in the event MRS is found to be a debt collector as defined in the FDCPA, which is specifically denied, any such violation(s) was not intentional and resulted from a *bona fide* error, notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

THIRD AFFIRMATIVE DEFENSE

Assuming Plaintiff suffered any damages, Plaintiff has failed to mitigate his damages or take other reasonable steps to avoid or reduce his damages.

FOURTH AFFIRMATIVE DEFENSE

Should Plaintiff bring this matter on behalf of a class, Plaintiff fails in whole or in part to satisfy the requirements for a class action.

FIFTH AFFIRMATIVE DEFENSE

Should Plaintiff bring this matter on behalf of a class, this action should not be maintained as a class action because individual questions predominate over common questions of law and fact, and a class action is not superior to other available methods for the fair and efficient adjudication of the matter.

WHEREFORE, MRS prays for an order and judgment of this Court in its favor against Plaintiff as follows:

1. Dismissing all causes of action against MRS with prejudice and on the merits; and,
2. Awarding MRS such other and further relief as the Court deems just and equitable.

Dated: October 3, 2019

By /s/ Michael T. Etmund

Michael T. Etmund, NY REG # 5168331
Moss & Barnett, PA
150 South Fifth Street, Suite 1200
Minneapolis MN 55402-4129
Telephone: (612) 877-5000
Facsimile: (612) 877- 5050
Michael.Etmund@lawmoss.com

Aleksander Powietrzynski, Esq.
Winston & Winston, P.C.
155 E 44th Street, 5th Floor, Suite 142
New York, New York 10017
Tel: 212-922-9483
Alex@winstonandwinston.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2019, the foregoing document was filed with the Clerk of the Court and served in upon the following non-ECF parties via U.S. mail:

Sholem Greenfeld
929 E 22nd Street
Brooklyn, NY 11210
Pro Se Plaintiff

/s/ Michael T. Etmund
Michael T. Etmund